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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON

KELLY O'KELL,

Plaintiff,

vs.

RYAN ZINKE, in his official capacity  
as Secretary of the United States  
Department of the Interior,

Defendant.

Case No.: 2:18-cv-00279-SAB

UNITED STATES OF AMERICA'S  
ANSWER TO PLAINTIFF'S  
COMPLAINT OF AGE  
DISCRIMINATION

Defendant United States Department of the Interior, United States of America, by and through Joseph H. Harrington, United States Attorney for the Eastern District of Washington, and the undersigned attorney respond to the allegations in Plaintiff's Complaint of Age Discrimination, ECF No. 1. The headings are included only for convenience and are not part of Defendant's Answer; to the extent that the headings in the Complaint make substantive allegations, Defendant denies the allegations.

**PARTIES**

1. Defendant admits ¶ 1.

2. Defendant admits ¶ 2.

**JURISDICTION**

3. The allegations contained in ¶ 3 of the Complaint constitute Plaintiff's characterization of this legal action to which no answer is required. To the extent a response is necessary, Defendant denies the allegations.

4. The allegations contained in ¶ 3 of the Complaint call for a legal conclusion to which no answer is necessary. To the extent a response is necessary, Defendant denies the allegations.

5. Defendant admits ¶ 5.

6. Defendant presently lacks the knowledge or information to form a belief as to the truth of ¶ 6 as it relates to Plaintiff's correspondence with the EEOC Federal Sector Programs and therefore, denies same. The remainder of ¶ 6 of the Complaint calls for a legal conclusion to which no answer is necessary. To the extent a response is necessary, Defendant denies the allegations.

7. The allegations contained in ¶ 7 of the Complaint call for a legal conclusion to which no answer is necessary. To the extent a response is necessary, Defendant denies the allegations.

**ALLEGED FACTS**

8. Defendant admits ¶ 8.

9. Defendant admits ¶ 9.

10. Defendant admits ¶ 10.

1 11. Defendant admits ¶ 11.

2 12. In response to ¶ 12, Defendant admits only that Plaintiff applied for a  
3  
4 GS-12 Project Manager position at the Ephrata Field Office in the April 2016  
5 timeframe. Defendant denies the remainder of ¶ 12.

6  
7 13. Defendant denies ¶ 13.

8 14. Defendant admits ¶ 14.

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10 15. In response to ¶ 15, Defendant admits only that Ms. Davidson was less  
11 than 40 years of when she was hired as the Project manager. Defendant presently  
12 lacks the knowledge or information to form a belief as to the truth of the remainder  
13 of ¶ 15 and therefore, denies same.

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15 16. In response to ¶ 16, Defendant admits only that Ms. Maciel sat on the  
16 hiring panel for the Project Manager position. Defendant denies the remainder of ¶  
17  
18 16.

19  
20 17. Defendant denies ¶ 17.

21 18. Defendant denies ¶ 18.

22  
23 19. In response to ¶ 19, Defendant admits only that Plaintiff contacted an  
24 EEO Counselor on May 25, 2016. Defendant denies the remainder of ¶ 19.

25 20. In response to ¶ 20, Defendant admits only that Plaintiff's May 25, 2016,  
26 EEO Complaint names Mr. Ortiz, Mr. Wertz, Mr. Lay, and Ms. Maciel. Defendant  
27 denies the remainder of ¶ 20.  
28

1       21. In response to ¶ 21, Defendant admits only that on May 25, 2016, that  
2 management was informed of Plaintiff's EEO complaint. Defendant presently  
3 lacks the knowledge or information to form a belief as to the truth of the remainder  
4 of ¶ 21 and therefore, denies same.  
5

6       22. In response to ¶ 22, Defendant admits only that on June 2, 2016,  
7 Plaintiff's telework privileges were suspended until further notice. Defendant  
8 denies Plaintiff's telework agreement was terminated. Defendant presently lacks  
9 the knowledge or information to form a belief as to the truth of the remainder of ¶  
10 22 and therefore, denies same.  
11

12       23. Defendant denies ¶ 23.  
13

14       24. In response to ¶ 24, Defendant admits only that on July 21, 2016,  
15 Plaintiff was reprimanded for inappropriate conduct that occurred on April 19 and  
16 May 19, 2016. Defendant denies the remainder of ¶ 24.  
17

18       25. Defendant admits ¶ 25.  
19

20       26. Defendant presently lacks the knowledge or information to form a belief  
21 as to the truth of the remainder of ¶ 26 and therefore, denies same.  
22

23       27. Defendant presently lacks the knowledge or information to form a belief  
24 as to the truth of the remainder of ¶ 27 and therefore, denies same.  
25

26       28. Defendant denies ¶ 28.  
27  
28

1       29. In response to ¶ 29, Defendant admits only that on September 14, 2017,  
2 Mr. Lay did propose the suspension of the Plaintiff based on a number of reasons  
3 including but not limited too an email written by Plaintiff that included the  
4 sentence “[o]nly the young and perky are capable of being on the good projects.”  
5 Defendant denies the remainder of ¶ 29.  
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7

8       30. Defendant denies ¶ 30.

9       31. Defendant denies ¶ 31.

10       32. Defendant denies ¶ 32.

11       33. In response to ¶ 33, Defendant admits only that it did not discipline, write  
12 up, reprimand or otherwise chastise Mr. Brooks and Ms. Flores for bringing a  
13 complaint against Ms. O’Kell. Defendant denies the remainder of ¶ 33.  
14  
15

16       34. In response to ¶ 34, Defendant admits only that on March 14, 2018, that  
17 Plaintiff was asked to leave an all employee luncheon as it was her turn to be  
18 interviewed as part of an administrative investigation. Defendant denies the  
19 remainder of ¶ 34.  
20  
21

22       35. Defendant denies ¶ 35.

23       36. Defendant denies ¶ 36.

24       37. Defendant denies ¶ 37.

25       38. Defendant denies ¶ 38.  
26  
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1 39. In response to ¶ 39, Defendant admits only that on July 18, 2018, that  
2 Plaintiff terminated from her employment and that the termination letter references  
3 the July 21, 2016, letter of reprimand. Defendant denies the remainder of ¶ 39.  
4

5 40. In response to ¶ 40, Defendant admits only that in the November to  
6 December timeframe the Plaintiff participated in the process of hiring three new  
7 realty Specialists at the Ephrata Field Office and that meeting took place.  
8 Defendant denies the remainder of ¶ 40.  
9  
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11 41. Defendant denies ¶ 41.

12 42. Defendant denies ¶ 42.

13 43. Defendant denies ¶ 43.

14 44. Defendant denies ¶ 44.

15 45. Defendant denies ¶ 45.  
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18 **LEGAL CLAIMS**

19 **(Violation of the Age Discrimination in Employment Act, 29 U.S.C. § 621,**  
20 **et seq. - Discrimination)**

21 46. Defendant incorporates the above answers as if they are fully stated here.

22 47. Defendant admits ¶ 47.

23 48. Defendant admits ¶ 48.

24 49. Defendant denies ¶ 49.

25 50. Defendant denies ¶ 50.  
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27  
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**(Violation of the Age Discrimination in Employment Act, 29 U.S.C. § 621, et seq. – Retaliation & Hostile Work Environment)**

51. Defendant incorporates the above answers as if they are fully stated here.

52. Defendant admits ¶ 52.

53. Defendant admits ¶ 53.

54. Defendant denies ¶ 54.

55. Defendant denies ¶ 55.

56. Defendant denies ¶ 56.

57. Defendant denies ¶ 57.

**RELIEF AND REQUEST FOR A JURY TRIAL**

Defendant denies that Plaintiff is entitled to the relief requested or to any relief whatsoever. Defendant requests a jury trial.

**AFFIRMATIVE DEFENSES**

**First Defense**

Defendant had legitimate, non-discriminatory reasons for its actions.

**Second Defense**

The United States hereby reserves the right to plead all other affirmative defenses or any applicable state and federal statutes as they become known, and to amend their answer accordingly.

WHEREFORE, having fully answered all counts of the Complaint,

1 Defendant prays that Plaintiff take nothing by way of his Complaint, that  
2 the same be dismissed, and that judgment be awarded in favor of  
3  
4 Defendant, together with costs and such other and further relief as the  
5 Court deems appropriate in this case.

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7 Respectfully submitted: November 5, 2018.

8 Joseph H. Harrington  
9 United States Attorney

10 s/ Vanessa R. Waldref  
11 Vanessa R. Waldref  
12 Assistant United States Attorney  
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17

18 **CERTIFICATE OF SERVICE**

19  
20 I hereby certify that on November 5, 2018, I electronically filed the  
21 foregoing with the Clerk of the Court using the CM/ECF system, which will send  
22 notification of such filing to the following:  
23

24 Mathew Z. Crotty - [matt@crottyandson.com](mailto:matt@crottyandson.com)

25 Michael B. Love - [mike@michaellovelaw.com](mailto:mike@michaellovelaw.com)  
26

27 s/ Vanessa R. Waldref  
28 Vanessa R. Waldref  
Assistant United States Attorney